

2005 DRAFTING REQUEST

Assembly Substitute Amendment (ASA-AB522)

Received: **08/09/2005**

Received By: **pkahler**

Wanted: **Soon**

Identical to LRB:

For: **Jeffrey Wood (608) 266-1194**

By/Representing: **Tony Blodgett**

This file may be shown to any legislator: **NO**

Drafter: **pkahler**

May Contact:

Addl. Drafters:

Subject: **Dom. Rel. - cust./plac./vis.**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.WoodJ@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Consider abuse of any child and require consideration at initial determination

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	pkahler 08/09/2005	kfollett 08/09/2005		_____			
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FE Sent For:

<END>

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/?	pkahler	11/5/f 8/9					

FE Sent For:

<END>

8-9-05

Tony Blodgett 6-1194

Jeff Wood's office

do a sub to AB 522

① consider evidence of abuse or neglect
w. any child

② require it to consider these factors
at initial determination -

but would still need
to add stepparent at
modification because no
stepparent at initial
divorce



State of Wisconsin
2005 - 2006 LEGISLATURE

LRBs0175/7

PJK: [signature]

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION
ASSEMBLY SUBSTITUTE AMENDMENT,
TO 2005 ASSEMBLY BILL 522

D. note
(Thurs, please)
8-11

gener cat

1 AN ACT ~~relating to~~; **relating to:** considering a person's criminal record and evidence of
2 abuse or neglect of any child when determining custody or physical placement
3 of a child.

Analysis by the Legislative Reference Bureau

Under current law, when a court determines the custody or physical placement of a child in an action affecting the family, such as a divorce, the court must consider all factors relevant to the best interest of the child. The statutes contain a number of specific factors that the court must consider, including whether either parent has engaged in abuse of the child.

This substitute amendment provides that when a court determines the custody or physical placement of a child in an action affecting the family, in addition to the factors under current law, the court must consider whether a person with whom a parent of the child has a dating relationship, or a person who resides, has resided, or will reside regularly or intermittently in a proposed custodial household ~~has a~~ criminal record or has abused or neglected the child or any other child.

Also under current law, when a court decides whether to modify custody or physical placement of a child after an initial determination, the court must consider the same factors that the court must consider when making the initial

determination. The substitute amendment requires a court to also consider whether a stepparent of the child has a criminal record or has abused or neglected the child or any other child when deciding whether to modify custody or physical placement of a child after an initial determination.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 767.24 (5) (am) 12m. of the statutes is created to read:

2 767.24 (5) (am) 12m. Whether any of the following has a criminal record and
3 whether there is evidence that any of the following has engaged in abuse, as defined
4 in s. 813.122 (1) (a), of the child or any other child or neglected the child or any other
5 child:

6 a. A person with whom a parent of the child has a dating relationship, as
7 defined in s. 813.12 (1) (ag).

8 b. A person who resides, has resided, or will reside regularly or intermittently
9 in a proposed custodial household.

10 **SECTION 2.** 767.325 (5m) of the statutes is renumbered 767.325 (5m) (a) and
11 amended to read:

12 767.325 (5m) (a) ~~In Subject to par. (b),~~ in all actions to modify legal custody or
13 physical placement orders, the court shall consider the factors under s. 767.24 (5)
14 (am), subject to s. 767.24 (5) (bm), and shall make its determination in a manner
15 consistent with s. 767.24.

16 History: 1987 a. 355, 364; 1995 a. 27 s. 9126 (19); 1999 a. 9; 2003 a. 130.

17 **SECTION 3.** 767.325 (5m) (b) of the statutes is created to read:

18 767.325 (5m) (b) In determining the best interest of the child under this
19 section, in addition to the factor under s. 767.24 (5) (am) 12m., the court shall
consider whether a stepparent of the child has a criminal record and whether there

1 is evidence that a stepparent of the child has engaged in abuse, as defined in s.
2 813.122 (1) (a), of the child or any other child or neglected the child or any other child.

3 **SECTION 4. Initial applicability.**

4 (1) This act first applies to actions or proceedings, including actions or
5 proceedings to modify a judgment or order previously granted, that are commenced
6 on the effective date of this subsection.

7 (END)

D-note

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBs0175/7dn

PJK: *leg*

Date

Representative Wood:

1. One change that I made to the language as a result of having this requirement apply when a court initially determines custody and physical placement was to proposed s. 767.24 (5) (am) 12m. b. Instead of a person who *resides or has resided in the same dwelling as the child*, the language now requires the court to consider a person who *resides, has resided, or will reside in a proposed custodial household*. See s. 767.24 (5) (am) 7. for similar language. Let me know if you want this changed in any way.
2. Although I doubt that anyone will make this objection, because the substitute amendment expands the scope of the requirement to initial determinations, the substitute amendment may be subject to an objection that it is not germane under assembly rule 54 (3) (f).

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: pam.kahler@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0175/1dn
PJK:kjf:rs

August 9, 2005

Representative Wood:

1. One change that I made to the language as a result of having this requirement apply when a court initially determines custody and physical placement was to proposed s. 767.24 (5) (am) 12m. b. Instead of a person who *resides or has resided in the same dwelling as the child*, the language now requires the court to consider a person who *resides, has resided, or will reside in a proposed custodial household*. See s. 767.24 (5) (am) 7. for similar language. Let me know if you want this changed in any way.
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